



August 27, 2015

By FOIA-Online and Email: hq.foia@epa.gov

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

Re: Freedom of Information Request for Documents Supporting the Environmental Protection Agency's ("EPA") White Paper on Winter Manure Application and Water Quality and Related Records

Dear Freedom of Information Officer:

Earthjustice, on behalf of itself and Riverkeeper, Inc., submits this request for records in accordance with the provisions of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.

BACKGROUND: The record requested herein was the subject of a FOIA request submitted on April 20, 2015, No. HQ-2015-006482. By letter from EPA dated June 30, 2015, the record requested herein was withheld under Exemption 5. On July 30, 2015, the undersigned submitted an appeal of this withholding to EPA via email at 6:06 p.m. On August 4, 2015, EPA sent the undersigned a letter indicating that the FOIA appeal was received on July 31, 2015, despite the fact that the email was sent on July 30, 2015. In a follow up telephone conversation with Larry Gottesman of EPA, a colleague of the undersigned was told that EPA considers emails received after 5 pm to be received on the following business day, although this policy does not appear in regulations or guidance documents, as far as we are aware. To ensure the timeliness of this FOIA appeal, we are resubmitting this FOIA request for the withheld document. We would appreciate your responding as soon as possible, but under no circumstances in more than 20 business days.

FOIA REQUEST: Earthjustice hereby requests an unredacted copy of the EPA white paper referenced in a powerpoint presented to the Cayuga County, New York Water Quality Management Agency on December 4, 2014. The Minutes from that meeting state that a powerpoint presentation was given, entitled "Winter Manure Application and Water Quality: Overview of the Literature."¹ The minutes state that "[t]he white paper that this presentation is based on will be released soon." The powerpoint presentation is attached to an online article

¹ Cayuga County Water Quality Management Agency, December 4, 2014 Meeting Minutes, <http://www.cayugacounty.us/County-Government/Clerk-of-Legislature/Committees/Sub-Committees/WQMA>.

reporting on the meeting published by a local newspaper,² and is also available on the Cayuga County Health Department's website.³

If you claim that the requested record is exempt from disclosure, please:

- (1) Provide an index of all documents containing the requested information, reflecting the date, author, addressee, number of pages, and subject matter of such documents;
- (2) State the exemption you deem to be applicable to each information request;
- (3) State with particularity the reason why such exemption is applicable to each information request;
- (4) Examine each information request to determine if reasonably segregable non-exempt information exists which may be released after redacting information deemed to be exempt; and
- (5) Exercise your discretion to release such records notwithstanding the availability of a basis for withholding.

To the extent that the requested records are available in a readily accessible electronic format, we would prefer to receive the documents electronically, either by email or on a CD. If electronic copies are unavailable, we will accept paper copies. Please send records to Eve Gartner at egartner@earthjustice.org, or mail them to:

Eve Gartner
Earthjustice
48 Wall Street, 19th Floor
New York, NY 10005

If you have any questions, please contact me by telephone at (212) 845-7381. Thank you for your assistance in this matter.

Sincerely,



Eve C. Gartner

cc: Nina Bonnelycke
George Utting

² Carrie Changler, *County Water Quality Officials Continue Discussion About Winter Manure Spreading*, Citizen (Auburn, NY), Dec. 8, 2014, http://auburnpub.com/news/local/county-water-quality-officials-continue-discussion-about-winter-manure-spreading/article_13f6dde6-504d-5381-8c35-c48745c859d1.html.

³ Cayuga County Government, OLWMC, <http://www.cayugacounty.us/Community/Health/Environmental-Health/OLWMC> (last visited Apr. 13, 2015).